

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFREY CHAMBERS,

Plaintiff,

v.

GRAND HAVEN, CITY OF, et al.,

Defendant.

CASE No. 1:22-CV-1125

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Green’s Report and Recommendation in this matter (ECF No. 31) and Plaintiff’s Objection to the Report and Recommendation (ECF No. 32). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends denying Plaintiff's motion for default judgment (ECF No. 24) and granting Defendants' Motion to Set Aside Default (ECF No. 28). The Magistrate Judge further recommends dismissing Plaintiff's claims against Defendant Tri-City Towing. (ECF No. 31). Plaintiff's objections fail to deal in a meaningful way with the Magistrate Judge's analysis; the rules relating to default; and the law regarding Section 1983 claims. As to Defendant Tri-City Towing, for example, Plaintiff admits the defendant is not a state actor, and he offers nothing by way of plausible facts to suggest the defendant was a conspirator, as opposed to simply a contractor following police instruction. In all of this, the Magistrate Judge carefully and thoroughly considered the record and the governing law. The Magistrate Judge properly analyzed Plaintiff's claims. Nothing in Plaintiff's objections changes the fundamental analysis

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 31) is **APPROVED AND ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment (ECF No. 24) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Motion to Set Aside Default (ECF No. 28) is **GRANTED**.

IT IS FURTHER ORDERED that Defendant Tri-City Towing is **DISMISSED** as a defendant from this case.

The Magistrate Judge shall conduct further proceedings in this case under the Court's December 1, 2022, Order of Reference. (ECF No. 5).

Dated: September 3, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE